

REMARKS

In the last Office Action, claims 1, 5-6, 10-11, 13, and 15-22 were present for examination with claims 3-4, 7-9, and 12 having been withdrawn pursuant to a restriction requirement. All of the elected claims were rejected. With this amendment, dependent claim 10 has been amended.

Applicants respectfully request reconsideration of the rejection of the claims in the last Office Action. The Applicants previously noted in regard to the primary reference Hoyt:

As recognized by Hoyt et al., the odd banjo-shape of their device is important to the operation of their multi-featured invention and its relative compactness (palm size). Their independent claim 7 even recites that their body "is longer than it is wide" and they refer to their body in their specification as having a "forward end" and a "rear end" (lines 23-25 of column 3) with "the first end being enlarged and rounded and the second end is narrower than the first end" (lines 47-50 of column 1). **[Hoyt] obviously did not contemplate having a circular body.** (emphasis added)

In response, the Examiner apparently agrees but goes on to make the seemingly closed-loop argument that:

While Hoyt did not specifically state the possibility for forming his body in a circular shape, there is nothing in the disclosure of Hoyt to preclude one of ordinary skill in the art from modifying in this shape.

In the full text of the rejection, the Examiner also argues that Hoyt's banjo-shaped, multi-sided tool could be made circular:

to reduce the number of edges of the tool and facilitate insertion of the tool in the user's pocket.

It seems clear that Hoyt, if anything, teaches away from a circular shape. It seems equally clear that the Examiner must and is using Applicants' own disclosure to reject their claims. There simply is no teaching, suggestion, or motivation in the art of record to make Hoyt's body circular. The only teaching, suggestion, or motivation to do so is in Applicants' own specification.

Reconsideration and allowance of the claims is respectfully requested.

If the Examiner maintains his rejection, entry of the amendment to claim 10 for purposes of appeal is respectfully requested.

SUMMARY

It is respectfully submitted that all of the claims now present in the case (claims 1, 5-6, 10-11, 13, and 15-22) are in condition for allowance and such action is respectfully requested. If, in the opinion of the Examiner, prosecution of this application could be expedited by a telephone interview, the Examiner is respectfully requested to contact the attorney for the applicants at the telephone number listed below.

Please charge any additional fees due or credit any refund to Account No. 04-1414.

Respectfully submitted,

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